

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

KANDEE COOLEY,

Plaintiff,

v.

**STATE OF ALABAMA
DEPARTMENT OF EDUCATION,
MOBILE COUNTY BOARD OF
SCHOOL COMMISSIONERS
and the MOBILE COUNTY
PUBLIC SCHOOL SYSTEM,**

Defendants.

CASE NO. 2:07cv808-MHT

MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT

COMES NOW, the Defendant the State of Alabama Department of Education (“SDE”) and in response to Plaintiff's Amended Complaint hereby adopts by reference in its entirety, as if fully set forth herein, the SDE’s Motion to Dismiss and Supporting Memorandum (Doc. 6) filed on October 9, 2007. The SDE is simultaneously filing a Reply to the Plaintiff’s Response to the SDE’s Motion to Dismiss, which is also adopted by reference in its entirety, as if fully set forth herein.¹

Wherefore, based upon Plaintiff’s allegations and applicable law, the SDE respectfully requests this Honorable Court to dismiss Plaintiff’s Amended Complaint, in

¹The Plaintiff’s Amended Complaint also seeks to add three defendants: “the Alabama State Superintendent, Joseph D. Morton, in his official capacity,” “Mobile County Public School System” and “Mobile County Board of School Commissioners.” (Doc. 24, p. 1). To the SDE’s knowledge, the Plaintiff only sought leave to amend her Complaint on October 30, 2007, no summons have been issued for the proposed defendants and none of those proposed defendants have been served with the Amended Complaint.

its entirety, with prejudice, and requests such other and further relief as this Court deems just and proper.

Respectfully submitted, this 14th day of November, 2007.

s/ Amanda C. Carter

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CERTIFICATE OF SERVICE

I do hereby certify that on this the 14th day of November, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and that I mailed a copy of the foregoing to the parties of record, properly addressed and first class postage prepaid.

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s/ Amanda C. Carter

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